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Docket No. MRI-127
Serial No. 10/080,436Remarks

Claims 4-14, 16-18, 20-24, and 26-28 are pending in this application. By way of this amendment, claims 24 and 26-28 have been amended and claims 1-3, 10-16, 19, 23, 25 have been canceled. Accordingly, claims 4-14, 16-18, 20-24, and 26-28 are currently pending in the subject application. Favorable consideration of the pending claims is earnestly solicited.

Claim 17 has been amended to replace "wolfram" with "tungsten" in order to correspond with the remarks made in the amendment filed June 4, 2004.

The applicants' substitute specification filed June 4, 2004 has not been entered because of failing to conform to 37 CFR 1.125 (b) and (c). Accordingly, the applicants are resubmitting the substitute specification in order to include line-numbering which was inadvertently omitted on the specification filed September 22, 2003, and to correct typographical errors and errors in the translation of the specification. Also submitted is a marked-up version of the specification showing the corrections to the typographical errors on page 1, lines 21 and 29 and correction of the errors in the translation on page 2, line 5 and page 2, line 30. The applicants substitute specification includes no new matter. The original translation of the German language specification originally filed in the USPTO on February 22, 2002, hereinafter "the original specification in German", failed to translate the German term "wolfram" into the English term "tungsten". In addition, the original translation incorrectly inserted the terms "as well as additives of titanium and beryllium" and "as well as an iron additive". A more accurate translation is "and titanium and beryllium for the balance" and "and iron for the balance", respectively. Submitted herewith for the Examiner's consideration is a signed expert Declaration under 37 C.F.R. §1.132 by Axel Winkel. As described in Axel Winkel's Declaration, these amendments to the specification provide a more accurate translation of the pertinent language of the original specification in German. In order to address the Examiner's concerns, the declaration now reads "the German language specification that was originally filed in the U.S. Patent Office on February 22, 2002". The declaration filed on June 4, 2004 in the subject application was unsigned, as mentioned in the Office Action. A signed version was then filed on June 9, 2004. The signed declaration attached with this Amendment incorporates the changes suggested by the Examiner.

Claims 4-14, 16-18, 20-24, and 26-28 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In order to overcome this

rejection, a substitute specification and signed expert Declaration by Axel Winkel has been submitted in accordance with the Examiner's guidance. The applicants assert that there is support for the claim language "and iron for the balance" and "and titanium and beryllium for the balance". Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection of claims 4-14, 16-18, 20-24, and 26-28 under 35 U.S.C. §112, first paragraph.

Claims 4-9, 17, 18, and 20-22 have been rejected under 35 U.S.C. §112, second paragraph. As being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action at page 5 states "[i]n claims 4-9, 17, 18, and 20-22 the meaning of the claim language, 'and titanium and beryllium for the balance' does not find support in the original English language version of the application . . ." and asks, "[d]oes this language mean that titanium and beryllium are the balance or that beryllium alone is the balance?". First, support for these amendments can be found in the original specification in German, in conjunction with the expert Declaration of Axel Winkel which is discussed above. Second, the applicants submit that the language means that titanium and beryllium compose the remainder of the composition. Support for this language can be found in the substitute specification and in the claims themselves. Specifically, the language "and titanium and beryllium for the balance" follows a semicolon ";" in the list of composition elements, and "titanium and beryllium" are not separated by punctuation before the language "for the balance". Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection of claims 4-9, 17, 18, and 20-22 under 35 U.S.C. §112.

Claims 10-14, 16, 23, and 26-28 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fariabi (U.S. Patent No. 5,636,641). In order to expedite prosecution of the subject application, claims 10-14, 16, and 23 have been canceled, claim 24 has been rewritten in independent form to include the limitations of canceled claim 23 from which it depended, and claims 26 and 27 have been amended to depend from claim 24 rather than claim 23.

The amendments to the claims have been made in an effort to lend greater clarity to the claimed subject matter and to expedite prosecution. These amendments should not be taken to indicate the applicants' agreement with, or acquiescence to, the rejections of record. Favorable consideration of the claims now presented, in view of the remarks and amendments set forth herein, is earnestly solicited.

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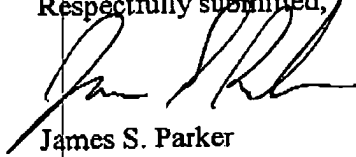
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In view of the foregoing remarks and the amendment above, the applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

The applicant also invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



James S. Parker
Patent Attorney

Registration No. 40,119

Phone: 352-375-8100

Fax No.: 352-372-5800

Address: P.O. Box 142950

Gainesville, FL 32614-2950

JSP/gld

Attachments: 1. Declaration under 37 C.F.R. §1.132 by Axel Winkel
2. Statement under 37 C.F.R. §1.125(b)
3. Marked-up Substitute Specification
4. Clean copy of Substitute Specification

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